UNITED STATES PATENT AND TRADEMARK OFFICE

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09/781,153	02/13/2001	Takeshi Kokado	2001_0153A	9451

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ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 June 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>35-68</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>35-68</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 35-68 are presented for examination. Claims 1-34 have been

cancelled.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis

for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a
> whole would have been obvious at the time the invention was made to a person having
> ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

3.   Claims 35-40, 44, 47, 52-63, and 67-68 are rejected under 35 U.S.C.

103(a) as being unpatentable over Jorgensen et al. (6,862,622) (hereinafter

Jorgensen) in view of Miller et al. (5,920,701) (hereinafter Miller).

4.   As per claims 35 and 52, Jorgensen discloses data transmission

system and method in which a server (server computer connected to the

data network, col 25, lines 10-12) is operable to transmit content data

(transmit packetized data such as video, data, and IP telephony, col 6, lines

5-9) that is designated by a content reservation request which is issued by a

data terminal device for the content data, said server being operable to

transmit the content data through one of a plurality of communications

circuits (wireless network and data network, col 3, lines 30-41) to a data

circuit terminating device which is connected to said data terminal device for

storing the content data (fig 3B, 1000, CPE station, col 3, lines 30-41),

wherein:

said plurality of communications circuits are connected in parallel

between said server and said data circuit terminating device (routers are

routing to wireless and data network links 136f, 140f, 140d,140e, fig 2D and

fig 3B, 1000, CPE station, col 3, lines 30-41);

each of said plurality of communication circuits (routers are routing to

wireless and data network links 136f, 140f, 140d, 140e, fig 2D and fig 3B,

1000, CPE station, col 3, lines 30-41) is operable to communicate the

content data to said data terminal device (transmit packetized data such as

video, data, and IP telephony, col 6, lines 5-9);

each of said plurality of communication circuits is operable to provide

communication between (routers are routing to wireless and data network

links 136f, 140f, 140d, 140e, fig 2D and fig 3B, 1000, CPE station, col 3,

lines 30-41) said server (136f, fig 2D) and said data terminal device through

different means (data network and wireless, fig 3B, 1000, CPE station, col 3,

lines 30-41);

and to select one of said plurality of communications circuits which

provides the most optimal means for communication between said server

(best path, links 136f, 140f, 140d, 140e, fig 2D, col 30, lines 44-47) and

said data circuit terminating device (routers are routing to wireless and data

network links 136f, 140f, 140d, 140e, fig 2D and fig 3B, 1000, CPE station,

col 3, lines 30-41).

Jorgensen in entirety discloses reservation request by subscriber CPE

(col 52, lines 14-26). Jorgensen does not explicitly discloses the content

reservation request indicates a time limit in which the content data that is

designated by said data terminal device is to be available in said data circuit

terminating device; either said server or any one of said plurality of

communications circuits comprises: a time limit management part operable

to manage the time limit indicated by the content reservation request issued

from said data terminal device; and a scheduling part, based on both the

time limit managed in said time limit management part and predetermined

communications information, operable to determine a transmission time, to

ensure that the content data is completely transmitted by the indicated time

limit; and said server comprises a data send out part operable to send out

the content data onto the determined optimal server one of said plurality of

communications circuits according to the transmission time that is

determined by said scheduling part. However, Miller discloses the content

reservation request indicates a time limit (completed by the requested

delivery time, col 4, lines 47-56) in which the content data that is

designated by said data terminal device is to be available in said data circuit

terminating device (col 4, lines 47-59); either said server or any one of said

plurality of communications circuits comprises (fig 1, col 4, lines 35-40):

a time limit management part operable to manage the time limit indicated

by the content reservation request issued from said data terminal device

(10, fig 1,scheduler, col 4, lines 35-56); and

a scheduling part (10, fig 1,scheduler, col 4, lines 35-56), based on both the

time limit managed in said time limit management part and predetermined

communications information (scheduler, col 4, lines 51-54), to ensure that

the content data is completely transmitted by the indicated time limit

(delivered by the request delivery time, col 4, lines 45-59); and said server

comprises a data send out part operable to send out the content data onto

the determined optimal server (determining bandwidth, col 2, lines 19-31)

one of said plurality of communications circuits according to the transmission

time that is determined by said scheduling part (col 4, lines 35-59). It would

have been obvious to one of ordinary skill in the art at the time of the

invention was made to combine the teachings of Jorgensen and Miller. The

motivation would have been transmitting data from one or more content

servers over a multi channel network system (wireless and data network) to

the subscribers based on their request.

5.   As per claim 36, the claim is rejected for the same reasons as claim

35, above. In addition, Miller discloses the predetermined communications

information indicates at least one of a size of the content data that is

designated by the content reservation request and the number of data

terminal devices to which the content data is addressed (parameters, col 4,

lines 45-56).

6.   As per claim 37, the claim is rejected for the same reasons as claim

35, above. In addition, Jorgensen discloses data circuit terminating device

operates while receiving power from any one of said plurality of

communications circuits (1000, 120d,fig 3B, CPE station, col 3, lines 30-41

and col 40 lines 59-67).

7.   As per claim 38, the claim is rejected for the same reasons as claim

35, above. In addition, Miller discloses a content storage operable to store

the content data transmitted over the determined optimal one of said

subscriber channel into a recording area thereof (col 4, lines 35-40); and a

data transmission part operable to read, from said content storage (col 4,

lines 40-45), the content data that is designated by a read request issued

from said data terminal device for the content data to be transmitted to said

data terminal device (col 4, lines 35-59).

8.   As per claim 39, the claim is rejected for the same reasons as claim

35, above. In addition, Miller discloses after reading the content data that is

designated by the read request (col 2 lines 10-14), said data transmission

part is also operable to read content data that is not designated by the read

request (adding content, col 2, lines 11-20), and to transmit a set of the

read content data to the data terminal device (col 2, lines 11-31).

9.   As per claim 40, the claim is rejected for the same reasons as claim

35, above. In addition, Miller discloses data circuit terminating device is

operable to transmit a storage completion notice to said data terminal device

indicating that the content data is successfully stored in the recording area

of said content storage (col 3, lines 8-11).

10.   As per claim 44, the claim is rejected for the same reasons as claim

35, above. In addition, Miller discloses at least one of said plurality of

communications circuits includes a recording area management unit

operable to manage the recording area of said data circuit terminating

device, and in response to a request from said server, said recording area

management unit is operable to transmit a recording area reserve

instruction to request said data circuit terminating device to reserve a space

in the recording area for the content data (storing, col 6, lines 36-51).

11.   As per claim 47, Miller discloses system includes at least one additional

data circuit terminating device, said data circuit terminating device and said

at least one additional data circuit terminating device constituting a plurality

of data circuit terminating devices, and any one of said plurality of data

circuit terminating devices is operable to acquire content data that is stored

in a content storage area of another one of said plurality of data circuit

terminating devices (col 5, lines 4, lines 35-59 and col 5, lines 36-51).

12.   As per claim 53, the claim is rejected for the same reasons as claim

35, above. In addition, Miller discloses a status data generation part

operable to generate content reservation status data listing at least one

download condition (col 2, lines 19-22) which is indicative of at least one of

a transmission time and a transmission cost for content data that is available

to be transmitted from said server (col 2, lines 11-14); and

a data transmission part operable to transmit the content reservation

status data generated by said status data generation part to the number of

said plurality of data terminal devices (scheduler, col 4, lines 35-59);

wherein said data transmission system is operable to collect from the number of said plurality of data terminal devices a corresponding number of content reservation requests each indicating a download condition for downloading the content data to the number of said plurality of data terminal devices, respectively (parameter, col 4, lines 35-55);

wherein said data transmission system further comprises:

a download condition management part operable to manage (parameters, col 4, lines 35-40) the content data and the at least one download condition in accordance with the number of content reservation requests received from the number of said plurality of data terminal devices (col 4, lines 45-59);

a scheduling part operable to determine, based on the at least one download condition managed in said download condition management part (col 4, lines 45-59), a transmission timing which ensures that the content data transmitted under the download condition (col 4, lines 45-59) is completely received by the number of said plurality of data terminal devices in accordance with the download condition indicated by the content reservation request received from each of the number of said plurality of data terminal devices (col 4, lines 35-59), and

a data send out part operable to send out the content data onto one of

said plurality of communications circuits according to the transmission timing

determined by said scheduling part (col 4, lines 35-59).

13.   As per claim 54, the claim is rejected for the same reasons as claim

35, above. In addition, Miller discloses the download condition is a time limit

in which the content data that is designated by at least one of said plurality

of data terminal devices is to be ready in any one of said data terminal

devices (col 2, lines 19-29).

14.   As per claim 55, the claim is rejected for the same reasons as claim

35, above. In addition, Miller discloses an acceptance processing part

operable to accept the content reservation request, and to determine, based

on how many other data terminal devices of said plurality of data terminal

devices (fig 1) are induced to receive the content data by the time limit, a

transmission expense for the content data (total transmission time,

bandwidth, priority, col 2, lines 19-37).

15.   As per claim 56, the claim is rejected for the same reasons as claim

35, above. In addition, Miller discloses acceptance processing part is

operable to refer to a time margin that is left for a new time limit to

determine the transmission expense for the content data when the content

reservation request that is issued from one of said plurality of data terminal

devices carries the new time limit which is not indicated by the content

reservation status data (bandwidth, col 2, lines 19-37 and col 3, lines 8-19).

16.   As per claim 57, the claim is rejected for the same reasons as claim

35, above. In addition, Miller discloses the download condition is a

transmission expense for the content data that is designated by the content

reservation request issued from one of said plurality of data terminal devices

(bandwidth, time, col 2, lines 11-31), said transmission system further

comprises an acceptance processing part operable to accept the content

reservation request from the one of said plurality of data terminal devices,

and to determine, based on how many other data terminal devices of said

plurality of data terminal devices are requesting for the content data to be

transmitted by the time limit, the transmission expense for the content data

(col 2, lines 11-31),and

        said data send out part is operable to send out the content data

designated by the content reservation request onto one of said plurality of

communications circuits when the transmission expense determined by said

acceptance processing part becomes equal to or less than a predetermined

value (col 2, lines 1-10 and lines 20-37).

17.   As per claim 58, the claim is rejected for the same reasons as claim 35, above. In addition, Miller discloses the download condition is the number of other data terminal devices of said plurality of data terminal devices requesting for the content data to be transmitted (col 4, lines 10-31), said data transmission system further comprises an acceptance processing part operable to accept the content reservation request from one of said plurality of data terminal devices, and to determine, based on how many other data terminal devices of said plurality of data terminal devices are requesting the content data to be transmitted (priority, col 2, lines 11-20), a transmission expense for the content data, and said data send out part is operable to send out the content data designated by the content reservation request onto one of said plurality of communications circuit when the number of content reservation requests that are accepted by said acceptance processing part becomes equal to or larger than a predetermined value (col 2, lines 1-10 and lines 20-37).

18.   As per claim 59, the claim is rejected for the same reasons as claim 35, above.

19.   As per claim 60, the claim is rejected for the same reasons as claim 35, above.

20.   As per claim 61, the claim is rejected for the same reasons as claims

36 and 38, above.

21.   As per claim 62, the claim is rejected for the same reasons as claim

38, above.

22.   As per claim 63, the claim is rejected for the same reasons as claim

35, above. In addition, Miller discloses selection condition list is generated

based on a keyword that is inputted into said data terminal device by a user

(table, col 7, lines 19-50).

23.   As per claim 67, the claim is rejected for the same reasons as claim

35, above. In addition, Miller discloses a content storage operable to store,

from the content data set received from the determined optimal one of said

plurality of communications circuits, only the content data satisfying the

predetermined selection condition (col 5, lines 35-51), and a data

transmission part operable to read the content data stored in said content

storage for the content data to be transmitted to said data terminal device in

response to a read request issued from said data terminal device for the

content data. (col 2, lines 11-31)

24.   As per claim 68, the claim is rejected for same reasons as claim 35,

above.

25.   Claims 41-43, 45,46, 48 and 64-66 are rejected under 35

U.S.C. 103(a) as being unpatentable over Jorgensen et al. (6,862,622)

(hereinafter Jorgensen) in view of Miller et al. (5,920,701) (hereinafter

Miller) as applied to claim 35 above, and further in view of Berstis et al.

(6,182,122) (hereinafter Berstis).

26.   As per claim 41, Miller discloses the storage completion notice (col 3,

lines 8-11). Miller fails to disclose, format of HTML. However, HTML format is

well known in the art. Berstis, for example, discloses format of HTML (col 9,

lines 50-51). It would have been obvious to one of ordinary skill in the art at

the time of the invention was made to modify the teachings of Jorgensen

and Miller with Berstis. The motivation would have been to provide industry

standard HTML formatting.

27.   As per claim 42, the claim is rejected for the same reasons as claim

41, above. In addition Berstis discloses sending an e-mail (col 4, line 2).

28.   As per claim 43, the claim is rejected for the same reasons as claim

41, above. Berstis discloses in various formats, in a format that is

designated by a user of said data terminal device (col 1, lines 47-54 and col

4, lines 55-60 and col 9, lines 37-46).

29.   As per claim 45, Miller discloses data circuit terminating device

inquires said server through memory processing whether the content data

has been updated when the content data that is requested by said data

terminal device is popular, said server is operable to, when the content data

has been updated, responsively transmit the updated content data to said

data circuit terminating device, and said data circuit terminating device is

operable to store the updated content data received from said server into

said content storage (storing, col 6, lines 36-51). Miller fails to disclose

cache. However, cache term is used for the temporary memory is well

known in the art. Berstis, for example, discloses cache (pre-caching, col 5,

lines 32-41 and col 6, lines 54-55). It would have been obvious to one of

ordinary skill in the art at the time of the invention was made to modify the

teachings of Jorgensen and Miller with Berstis. The motivation would have

been to provide faster access to the data without doing extra I/O to the disk.

30.   As per claim 46, the claim is rejected for the same reasons as claim

45, above. In addition, Miller discloses the recording area of said content

storage is divided into a plurality of smaller areas, and said data circuit

terminating device is operable to assign each different smaller area to store

the content data acquired by the content reservation request and the

content data acquired through the memory processing (col 5, lines 36-51).

31.   As per claim 48, the claim is rejected for the same reasons as claim

46, above. In addition, Miller discloses said data circuit terminating device is

operable to, inquire said server when the communications traffic on the

determined optimal one of said plurality of communications circuits is low

(col 3, lines 45-56).

32.   As per claim 64, Berstis discloses data circuit terminating device

further comprises a data deletion part operable to delete the content data

set stored in said content storage within a predetermined timing (col 8, lines

1-12). It would have been obvious to one of ordinary skill in the art at the

time of the invention was made to combine the teachings of Jorgensen and

Miller with Berstis. The motivation would have been to provide a system of

capturing unused storage space.

33. AS per claim 65, the claim is rejected for the same reasons as claim 64, above. In addition, Miller discloses content storage when a recording capacity of said content storage becomes smaller than a predetermined reference recording capacity (col 2, lines 28-47).

34. As per claim 66, the claim is rejected for the same reasons as claim 64, above.

35. Claims 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen et al. (6,862,622) (hereinafter Jorgensen) in view of Miller et al. (5,920,701) (hereinafter Miller) as applied to claim 35 above, and further in view of Schweitzer et al (6,418,467) (hereinafter (Schweitzer).

36. As per claim 49, Schweitzer discloses circuit terminating device is implemented with a protocol to function as a mail server, and is operable to perform transmission and reception of an e-mail (col 5, lines 16-21). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Jorgensen and Miller with Schweitzer. The motivation would have been to have a system with e-mal server which can send e-mail messages to different users.

37.   As per claim 50, the claim is rejected for the same reasons as claim 49, above.

38.   As per claim 51, the claim is rejected for same reasons as claim 49, above. In addition Miller discloses the notification is assigned a priority indicating an importance of the notification, and said data circuit terminating device is operable to change a timing for sending out the notification onto the determined optimal one of said plurality of communications circuits according to the priority assigned to the request (col 3, lines 8-23).

Response to Arguments

39.   Applicant's arguments filed 06/22/2005 have been fully considered but they are not persuasive, therefore rejections to claims 35-68 is maintained.

40.   In the remarks applicants argued that:

Argument: Jorgensen does not disclose the plurality of communications circuits are connected in parallel between the server and the data circuit terminating device.

Response: Jorgensen disclose said plurality of communications circuits are
connected in parallel between said server and said data circuit terminating
device (routers are routing to wireless and data network links 136f, 140f,
140d, 140e, fig 2D and fig 3B, 1000, CPE station, col 3, lines 30-41; col 41
lines 27-53, elements of fig 2D and 3 clearly shows multiple parallel
communication circuits, applicant failed to point out description of
"connected in parallel" in the instant application, pages 10-12 of the instant
application simply describe wireless and wired connection between server
and data circuit terminating device. nebulous terms can not be defined
during the prosecution without support in the specification).

Argument: Miller does not disclose selecting an optimal circuit or network
for such data transmission.

Response: In response to Applicant's arguments **against the references
individually**, one cannot show non-obviousness by attacking references
individually where the rejections are based on combinations of references.
The examiner recognizes that obviousness can only be established by
combining or modifying the teachings of the prior art to produce the claimed
invention where there is some teaching, suggestion, or motivation to do so
found either in the references themselves or in the knowledge generally
available to one of ordinary skill in the art. See *In re Keller,* 642 F.2d 413,

208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ

375 (Fed. Cir. 1986). In this case Jorgensen disclose said plurality of

communications circuits are connected in parallel between said server and

said data circuit terminating device (routers are routing to wireless and data

network links 136f, 140f, 140d, 140e, fig 2D and fig 3B, 1000, CPE station,

col 3, lines 30-41; col 41 lines 27-53, elements of fig 2D and 3 clearly shows

multiple parallel communication circuits, applicant failed to point out

description of "connected in parallel" in the instant application, pages 10-12

of the instant application simply describe wireless and wired connection

between server and data circuit terminating device. nebulous terms can not

be defined during the prosecution without support in the specification);

select one of said plurality of communications circuits which provides the

most optimal means for communication between said server (best path,

links 136f, 140f, 140d, 140e, fig 2D, col 30, lines 44-47) and said data

circuit terminating device (routers are routing to wireless and data network

links 136f, 140f, 140d, 140e, fig 2D and fig 3B, 1000, CPE station, col 3,

lines 30-41). Miller discloses a scheduling part (10, fig 1,scheduler, col 4,

lines 35-56), based on both the time limit managed in said time limit

management part and predetermined communications information

(scheduler, col 4, lines 51-54), to ensure that the content data is completely

transmitted by the indicated time limit (delivered by the request delivery

time, col 4, lines 45-59); and said server comprises a data send out part

operable to send out the content data onto the determined optimal server

(determining bandwidth, 208, fig 4, col 2, lines 19-31) one of said plurality

of communications circuits according to the transmission time that is

determined by said scheduling part (elements of fig 4, col 4, lines 35-59). It

would have been obvious to one of ordinary skill in the art at the time of the

invention was made to combine the teachings of Jorgensen and Miller. The

motivation would have been transmitting data from one or more content

servers over a multi channel network system (wireless and data network) to

the subscribers based on their request.

Conclusion

41.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the

extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to

expire THREE MONTHS from the mailing date of this action. In the event a

first reply is filed within TWO MONTHS of the mailing date of this final action

and the advisory action is not mailed until after the end of the THREE-

MONTH shortened statutory period, then the shortened statutory period will

expire on the date the advisory action is mailed, and any extension fee

pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

advisory action. In no event, however, will the statutory period for reply

expire later than SIX MONTHS from the mailing date of this final action.

42.   Any inquiry concerning this communication or earlier communications

from the examiner should be directed to Mohammad A. Siddiqi whose

telephone number is (571) 272-3976. The examiner can normally be

reached on Monday -Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, John A. Follansbee can be reached on (571) 272-

3964. The fax phone number for the organization where this application or

proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained

from the Patent Application Information Retrieval (PAIR) system. Status

information for published applications may be obtained from either Private

PAIR or Public PAIR. Status information for unpublished applications is

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system, see http://pair-direct.uspto.gov. Should you have questions on

access to the Private PAIR system, contact the Electronic Business Center

(EBC) at 866-217-9197 (toll-free).

MAS